

Message Text

CONFIDENTIAL

PAGE 01 LONDON 03020 01 OF 02 142319 Z

64

ACTION MC-02

INFO OCT-01 EUR-25 ADP-00 PM-09 L-03 AID-20 OMB-01 EB-11

COME-00 T-03 TRSE-00 CIAE-00 INR-09 NSAE-00 RSC-01

INRE-00 DODE-00 IGA-02 RSR-01 /088 W
----- 055181

P 141738 Z MAR 73

FM AMEMBASSY LONDON

TO SECSTATE WASHDC PRIORITY 9663

C O N F I D E N T I A L SECTION 01 OF 02 LONDON 03020

E. O. 11652: GDS

TAGS: P/M, MASS, T TECH

SUBJECT: UNITED AIRCRAFT CORPORATION - WESTLAND MFG.
AGREEMENT

REF: (A) STATE 40949; (B) LONDON 2228; (C) STATE
A-1169 2/7/72

1. EMBOFF MET WITH MR. WALTER OPPENHEIMER, VICE
PRESIDENT OF WESTLAND LTD., ON MARCH 9. HE CONVEYED
DEPARTMENT'S CONCERN THAT WESTLAND, BY REFUSING TO
MODIFY SUBJECT AGREEMENT TO REFLECT USG EXPORT CONTROL
POLICIES OVER THIRD COUNTRY SALES, WAS VIOLATING INTENT
AND SPIRIT OF USG EXPORT, POLICIES AND REGULATIONS
APPLICABLE TO U. S. ORIGIN EQUIPMENT. EMBOFF ALSO ORALLY
ADVISED OPPENHEIMER THAT UNITED AIRCRAFT CORPORATION
(UAC) WAS TOLD BY OMC ON JANUARY 29, 1973 THAT NO
FURTHER ACTION COULD BE TAKEN ON UAC'S PENDING REQUEST
FOR AN AMENDMENT TO ORIGINAL AGREEMENT TO
PERMIT WESTLAND TO SUBLICENSE A GERMAN FIRM FOR THE
OVERHAUL AND REPAIR OF SEAKING HELICOPTER ROTORS.

2. OPPENHEIMER TOOK NOTE OF THE ABOVE ARGUMENTS BUT
WOULD NOT COMMENT ON BEHALF OF WESTLAND UNTIL EITHER
OMC OR THE EMBASSY PUT INTO WRITING: (A) THE SPECIFIC
WORDING OF THE AMENDMENT DESIRED; AND (B) THE " THREAT"
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PAGE 02 LONDON 03020 01 OF 02 142319 Z

THAT WESTLAND COULD NOT SUBLICENSE THE GERMAN FIRM. OFF THE RECORD AND SPEAKING PERSONALLY, OPPENHEIMER TERMED THE THREAT TO DELAY OR NOT TO GRANT APPROVAL OF THE GERMAN SUBLICENSE, UNLESS THE ORIGINAL AGREEMENT WAS AMENDED, " OUTRAGEOUS" AND " UNBELIEVABLE".

3. HE EXPLAINED THAT THE GERMAN FIRM IN QUESTION IS A SUB- CONTRACTOR OF THE GERMAN GOVERNMENT AND THAT THE REPAIRS AND OVERHAUL IN QUESTION ARE NORMAL MAINTENANCE FOR SEAKING HELICOPTERS OWNED BY GERMAN GOVERNMENT. WESTLAND ORIGINALLY CONTENTED TO SIKORSKY THAT NO AMENDMENT TO THE ORIGINAL 1959 AGREEMENT WAS REQUIRED FOR THE SUB- LICENSE BUT SIKORSKY, ACCORDING TO OPPENHEIMER, " WANTED MONEY" AND CLAIMED THAT AN AMENDMENT WAS NECESSARY. TO AVOID LEGAL ARGUMENTS OVER A SMALL POINT, WESTLAND AGREED TO ACCEPT THE SIKORSKY VIEWPOINT.

4. OPPENHEIMER STATED THAT USG REFUSAL TO AUTHORIZE A SUB- LICENSE INVOLVES NOT ONLY WESTLAND LTD. BUT ALSO THE BRITISH AND GERMAN GOVERNMENTS. THE FIRST HAS SUBSTANTIAL AMOUNTS OF RESEARCH FUNDS INVESTED IN THE SEAKING AND CLEARLY EXPECTS EXPORT RESULTS WHILE THE LATTER MAY FIND ITS GOVERNMENTAL REPAIR FACILITIES HAMPERED. BECAUSE OF THE GOVERNMENTAL INVOLVEMENT, AND SINCE OPPENHEIMER HAD NOT BEEN AWARE OF THE GERMAN SUB- LICENSE PROBLEM UNTIL LATE FEBRUARY (SEE REF B), HE WANTS WRITTEN CONFIRMATION OF THIS AT THE EARLIEST OPPORTUNITY. HE THEN INTENDS TO BRING IT TO THE ATTENTION OF BOTH THE BRITISH AND GERMAN GOVERNMENTS, FOR THEIR INFORMATION AND TO SEEK THEIR SUPPORT.

5. OPPENHEIMER CONSIDERS THAT THE " THIRD COUNTRY SALES" PROVISION, BESIDES BEING NOT LEGALLY BINDING ON WESTLAND, WOULD ALSO CREATE SERIOUS DIFFICULTIES FOR HIS FIRM IN COPING WITH BOTH USG AND HMG LICENSING REGULATIONS. HE BELIEVES THAT THE USG SHOULD DISCUSS THE MATTER OF " THIRD COUNTRY" SALES WITH HMG DIRECTLY TO EFFECT A COMPATABILITY OF LICENSING CONTROLS AND NOT PRESSURE WESTLAND TO ADOPT EX POST FACTO USG EXPORT REGULATIONS. OPPENHEIMER, HOWEVER, SAID THAT IF OMC WOULD (A) AUTHORIZE THE PENDING GERMAN SUB- LICENSE AND (B) WRITE
CONFIDENTIAL

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PAGE 03 LONDON 03020 01 OF 02 142319 Z

A LETTER EXPLAINING THE EXACT WORDING OF THE DESIRED

AMENDMENT AND NAMING THE SPECIFIC COUNTRIES INVOLVED, WESTLAND WOULD CONSIDER ADOPTING SOME FORM OF AMENDMENT TO THE 1959 AGREEMENT. HOWEVER, HE WOULD PROMISE NOTHING ON THIS LATTER POINT.

6. EMBASSY COMMENT: IF DEPT. WISHES PUSH WESTLAND TO ACCEPT TIGHTER USG CONTROLS ON ITS MILITARY SALES, PRESENT SITUATION, I. E., TRADE OFF OF AMENDMENT FOR USG GDS
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PAGE 01 LONDON 03020 02 OF 02 141914 Z

64
ACTION MC-02

INFO OCT-01 EUR-25 ADP-00 PM-09 L-03 AID-20 OMB-01 EB-11

COME-00 T-03 TRSE-00 CIAE-00 INR-09 NSAE-00 RSC-01

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FM AMEMBASSY LONDON
TO SECSTATE WASHDC PRIORITY 9664

C O N F I D E N T I A L SECTION 02 OF 02 LONDON 03020

APPROVAL WEST GERMAN SUBLICENSE, APPEARS TO OFFER BEST CHANCE FOR SUCCESS AVAILABLE FOR SOME TIME. UNFORTUNATELY, US LEGAL CASE APPEARS BY NO MEANS PERSUASIVE, AND WE WOULD EXPECT TO GENERATE LITTLE SYMPATHY FROM HMG FOR US EFFORT. BASED ON EMBOFF DISCUSSIONS WITH OPPENHEIMER, WE BELIEVE WESTLAND PROBABLY WOULD CONSUMATE WEST GERMAN DEAL AND CONTENTEND IT HAD A LEGAL RIGHT TO DO SO UNDER ORIGINAL AGREEMENT (SEE PARA 4). UNLESS WESTLAND BELIEVES HMG SUPPORTS USG POSITION - CLEARLY AN UNLIKELY POSSIBILITY - IT PROBABLY WILL CONCLUDE THAT IT COULD CALL OUR BLUFF WITHOUT UNDUE RISK. ARE WE PREPARED TO PLACE OURSELVES IN THIS POSITION?

7. ACTION REQUESTED: REGARDING QUESTION POSED PARA 4, REF A, WE DO NOT BELIEVE THAT APPROACH TO HMG AT THIS POINT WOULD IMPROVE OUR POSITION. WE SUGGEST THAT WE MEET WESTLAND'S REQUEST FOR TEXT OF AMENDMENT EITHER BY

PROVIDING EXACT WORDING OR AN OUTLINE OF RESTRICTIONS
WE HAVE IN MIND. SUGGEST WE BE AUTHORIZED TO CONVEY
THIS TO OPPENHEIMER AS ATTACHMENT TO LETTER WHICH WE CAN
WISH BEAR IN MIND THAT OPPENHEIMER IMPLIED THAT
ADDITIONAL RESTRICTIONS ON ONE OR TWO COUNTRIES MIGHT BE
ACCEPTABLE TO WESTLAND BUT NOT AN OPEN- ENDED WORDING
WHEREBY THE US COULD IMPOSE " THIRD- COUNTRY" CONTROLS AT
LIBERTY. WE RECOMMEND AGAINST PUTTING OUR REFUSAL
AUTHORIZE GERMAN SUBLICENSE IN WRITING FROM US TO
OPPENHEIMER, PARTICULARLY IF WE HAVE NOT BEEN WILLING TO
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PAGE 02 LONDON 03020 02 OF 02 141914 Z

PROVIDE UAC WITH THIS IN WRITING (FINAL PARA, DEPART-
MENT' S A-1160, FEBRUARY 7). DOING SO, WOULD PROVIDE
OPPENHEIMER WITH EVIDENCE OF " THREAT" HE COULD SHOW TO
BRITISH GOVERNMENT AND ON WHICH HE COULD BUILD ARGUMENTS
AGAINST AMENDMENT OF CONTRACT. FINALLY, WE RECOMMEND
INVOLVING UAC TO EXTENT POSSIBLE IN EFFORTS TO GET
WESTLAND TO AGREE TO AMEND CONTRACT. IF UAC STANDS TO
BENEFIT FROM GERMAN SUBLICENSING, IS THERE NOT AN
INCENTIVE FOR THEM TO APPLY PRESSURE ON WESTLAND.

8. REGARDLESS OF WHAT COURSE IS FOLLOWED, WE URGE
EXPEDITIOUS CONSIDERATION FOR WESTLAND PROBABLY WILL
BRING THIS MATTER TO THE ATTENTION OF BOTH THE BRITISH
AND GERMAN GOVERNMENTS WITHIN NEXT TWO WEEKS. ANNENBERG

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*** Current Handling Restrictions *** n/a

*** Current Classification *** CONFIDENTIAL

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Disposition Approved on Date:
Disposition Authority: worrelsw
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Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
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